IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Hans GFELLER et al.
Title:	DEVICE AND METHOD FOR DIVIDING VERTICAL GLASS PLATES
Appl. No.:	10/508,338
Filing Date:	September 20, 2004
Examiner:	Edward F. Landrum
Art Unit:	3724
Confirmation No.:	5678

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the restriction requirement issued April 3, 2007, Applicants elect Group I, claims 1-12, with traverse. Applicants request withdrawal of the restriction requirement for the reasons that follow.

The Examiner has required restriction between claims 1-12 (Group I), drawn to a device for breaking glass plates, and claims 13-19 (Group II), drawn to a method for breaking glass plates. In support of the restriction requirement, the Examiner alleges that Groups I and II lack the same or corresponding special technical features. Specifically, the Examiner asserts that "The special technical feature of group I are [sic] the suction devices on the holding means[]" and "The special technical feature of group II is lifting the glass plate before breaking it along the first line." Applicants respectfully disagree.

At the outset, Applicants submit that the Examiner has improperly applied restriction practice, rather than unity of invention to the present application, which is a national stage of a PCT application. MPEP § 1893.03(d) states that "Examiners are reminded that unity of

invention (*not restriction*) practice is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371." (Emphasis added.) Section 1893(d) further explains that: "When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) *explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.*" The present Office Action fails to comply with this second requirement.

MPEP § 1893(d) explains what is meant by a single general inventive concept" as follows:

> A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves *at least one common or corresponding special technical feature.* The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For example, a corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key. . . .
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> An apparatus or means is specifically designed for carrying out the process when the apparatus or means is suitable for carrying out the process with the technical relationship being present between the claimed apparatus or means and the claimed process. The expression specifically designed does not imply that the apparatus or means could not be used for carrying out another process, nor does it imply that the process could not be carried out using an alternative apparatus or means.

(Emphasis added.)

Here, the Office references the "suction devices," which are recited in dependent claim 8 and the "holding means," which are recited in dependent claim 5. Notably, these features are not specifically recited in independent claim 1 of Group I. Independent claim 1, however, does recite "at least one horizontal breaking device (39, 40, 42) for breaking the glass plate (102, 102b) along a line (Y1, Y2) that extends essentially horizontally." The same technical feature is recited in method claim 13, which recites that the glass plate "is broken at a breaking station (30) along a first line (Y1, Y2) that extends essentially horizontally during the breaking process."

Further, the present claims were expressly found to comply with the unity of invention requirement. In this regard, the Examiner's attention is drawn to the attached copy of the International Preliminary Examination Report (IPER). Applicant submits that the Examiner is bound by the determination of the IPEA. *See* PCT Applicant's Guide – Volume I – International Phase at ¶138, a copy of which is attached, which states as follows: "An international application which complies with the unity of invention requirements laid down in Rule 13 *must be accepted by all the designated and elected Offices*, since Article 27(1) does not allow any national law (as defined in Article 2(x)) to require compliance with requirements relating to the contents of the international application different from or additional to those provided for in the PCT."

In the event that the restriction requirement is maintained, Applicants reserve the right to file one or more divisionals drawn to the non-elected claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: May 3, 2007

By _____

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6014
Facsimile: (202) 672-5399

George C. Beck
Attorney for Applicants
Registration No. 38,072